

Attorney Docket No. A-68342-1/AMP/JFB

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OFFICE OF PETITIONS

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named		
Inventor:	Roy Geoffrey Sargent	Conf. No. 6693
Appln. No.:	09/470,859	
Filing Date:	December 23, 1999	Examiner: J. T. Woitach
Title:	PRODUCTION OF RECOMBINANT ORGANISMS	Group Art Unit: 1632

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 CFR §1.137(b)**

## MAIL STOP PETITION

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

08/19/2004 DALLEN 0000003 09470859

01 FC:1461	665.00 OP
02 FC:1461	165.00 OP
03 FC:1461	475.00 OP

The following is in response to the Notice of Abandonment mailed on December 19, 2003 and to the Petition Decision mailed on June 16, 2004 (copy enclosed). The above-identified application became abandoned for failure to file a timely and proper reply to a Final Office action by the United States Patent and Trademark Office nominally mailed on April 10, 2003.

Applicant hereby petitions for revival of the above-mentioned application under 37 CFR §1.137 (b), and authorizes the payment of fees as indicated below.

The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR §1.137(b) was unintentional.

A reply to the above-noted Final Office Action (nominally mailed on April 10, 2003) in the form of a Notice of Appeal from the Examiner to the Board of Patent Appeals and Interferences is enclosed herewith.

A Petition for Extension of Period for Response to reply to the above noted Final Office Action (from July 10, 2003 to October 10, 2003) is enclosed herewith.

Enclosed is a check for \$1305.00 for the following fees:

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- A small entity fee of (37 CFR §1.17(m)) the amount of \$665.00 for the petition under 37 CFR §1.137(b).
- The small entity fee of \$165 under 1.17(b) for the Notice of Appeal.
- The three-month extension fee of \$475.00.

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It is believed that no further fees are due. However, the Commissioner is authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account Deposit Account No. 50-2319 (Order No. A-68342-1/AMP/JFB).

Respectfully submitted,

DORSEY & WHITNEY LLP

Date: 7.14.04

By: John F. Brady

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JUN 16 2004

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In re Application of  
Roy Geoffrey Sargent  
Serial No.: 09/470,859  
Filed: December 23, 1999  
Attorney Docket No.: A-68342-1

File # A-68342-001 Atty AMP/JFB  
Due Date 8-16-2004  
Type New Petition Refs —  
(non-extendable)

PETITION DECISION

This is in response to the petition under 37 CFR 1.181 or, alternatively, under 37 CFR 1.137(b), filed January 9, 2004, for withdrawal of abandonment of the above identified application. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed a Final Office action to applicants on April 10, 2003, setting a three month shortened statutory period for reply. On or about July 18, applicant's attorney called the examiner requesting a copy of the Office action indicating that they had received, but misplaced, their copy of the Office action. The examiner mailed a courtesy copy of the Office action to applicant on July 24, 2003, but did not reset the period for reply. On or about December 17, 2003, applicant's attorney again contacted the examiner with regard to two references which were not in the file (and were not sent with the remailed courtesy copy of the Office action). As noted in the interview summary, the examiner informed applicant that the application was abandoned for failure to timely reply to the April 10, 2003, Office action. A Notice of Abandonment was then sent to applicant.

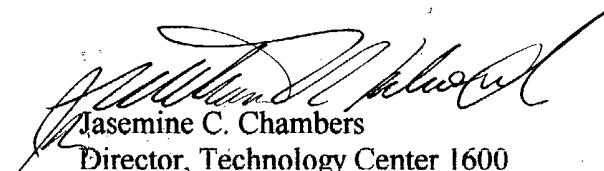
Applicant requests that the abandonment be withdrawn in view of the incorrect mail date of July 24, 2003, on their copy of the Office action. Applicant also filed with the petition a request for an extension of time and a Notice of Appeal. However, applicant acknowledges that the Office action, even according to their records, was mailed April 10, 2003, and that the docketing error occurred only because the replacement copy of the Office action had a new date thereon. Although it appears that the remailed copy of the Office action did not include the original cover sheet with the original mail date thereon, it likely would not have been noted by applicant's docketing personnel since it was not the first page of the Office action. Applicant and his attorney knew of the original due date of July 10, 2003, and maximum extendable due date of October 10, 2003, and failed to take appropriate action timely. In view of the evidence presented the Notice of Abandonment is not withdrawn under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **DENIED**.

Applicant's conditional petition under 37 CFR 1.137(b) is not a petition which is decided within the Technology Center. In addition, each petition presented must be a separate paper. Applicant should resubmit this petition as a separate paper. This type of petition is decided in the Office of Petitions. This petition is **DISMISSED**.

**The application will be retained in storage.** This application may be revived by filing a timely petition under 37 CFR 1.137(b). Any such petition must be filed within TWO MONTHS of the mail date of this decision in order to be considered timely.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 703-872-9306.



Jasemine C. Chambers  
Director, Technology Center 1600

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PATENT PRACTICE  
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PTO/SB/92 (08-03)

Approved for use through 07/31/2006. OMB 0561-0031

Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

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## Certificate of Mailing under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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P.O. Box 1450  
Alexandria, VA 22313-1450

on 7.14.04  
Date

  
Signature

John Brady  
Typed or printed name of person signing Certificate

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.

09/4/04, 859

Petition for Revival 37 CFR 1.137(b)

Notice of Appeal

Petition for Ext'n. of time

Copy of Petition Decision Check

This collection of information is required by 37 CFR 1.8. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.8 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.